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FILED

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Clerk, U.S. District Court
District Of Montana
Billings

ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KEVIN DAVID McGOVERN,
MC EQUIPMENT HOLDINGS,
LLC,
MT WATERWORKS, LLC,
and
BRIAN KELLY EAGLEMAN,

Defendants.

CR 16- 22 -GF-BMM

INDICTMENT

CONSPIRACY TO DEFRAUD THE
CHIPPEWA CREE TRIBE (Counts I, II)
Title 18 U.S.C. § 371
(Penalty: Five years imprisonment,
\$250,000 fine, and three years supervised
release)

SCHEME TO DEFRAUD THE
CHIPPEWA CREE TRIBE/WIRE
(Count III)
Title 18 U.S.C. § 1343
(Penalty: 20 years imprisonment, \$250,000
fine, and three years supervised release)

THEFT FROM AN INDIAN TRIBAL
ORGANIZATION (Count IV)
Title 18 U.S.C. §§ 1163, 2
(Penalty: Five years imprisonment,
\$250,000 fine, and three years of supervised
release)

	BRIBERY/OFFERING (Count V) Title 18 U.S.C. § 666(a)(2) (Penalty: Ten years imprisonment, \$250,000 fine, and three years of supervised release) FINES FOR CORPORATE DEFENDANT Title 18 U.S.C. § 3571(c) (Penalty: \$500,000 fine for each count of conviction)
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THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Indictment:

1. The Chippewa Cree Tribe of the Rocky Boy's Indian Reservation was a federally recognized tribe located in north central Montana whose affairs were governed by the Chippewa Cree Business Committee and whose government was located at Box Elder, Montana.

2. During the period of the indictment, the Chippewa Cree Tribe received millions of dollars, per calendar year and per fiscal year, from the United States government, including, but not limited to, the U.S. Departments of Interior, Health and Human Services, Education and Agriculture, and the Environmental Protection Agency.

3. The Chippewa Cree Construction Corporation is a tribally owned and federally chartered corporation, whose Board of Directors is comprised of members of the Chippewa Cree Tribal Business Council and members of the tribal

community, that serves as the primary general contractor on large tribal construction and economic development projects on the Rocky Boy's Indian Reservation.

4. Defendant KEVIN DAVID McGOVERN was an owner and agent of MC EQUIPMENT HOLDINGS, LLC, a heavy construction equipment rental company based in Billings, Montana, and an owner of MT WATERWORKS, LLC, a Billings, Montana, pipe and pipe fitting supply company.

5. Tony James Belcourt was the Chief Executive Officer and Contracting Officer for the Chippewa Cree Construction Corporation and a majority owner in MT WATERWORKS, LLC.

6. Defendant BRIAN KELLY EAGLEMAN was an elected member of the Chippewa Cree Tribal Business Committee and co-chairman of the CCT Roads Division Oversight Committee.

COUNT I
THE PUBLIC OFFICIAL AS SALESMAN CONSPIRACY

Between in or about the Fall of 2011, and continuing thereafter until on or about April 16, 2012, at Box Elder, Billings, and Havre, in the State and District of Montana, and other places, the defendants, KEVIN DAVID McGOVERN, MC EQUIPMENT HOLDINGS, LLC, and MT WATERWORKS, LLC, with each other and with Tony Belcourt, and others to the Grand Jury both known and unknown, did knowingly and intentionally conspire, confederate and agree to

commit an offense against the laws of the United States, that is, having devised and intending to devise a scheme and artifice to defraud and to obtain monies by means of false and fraudulent pretenses, representations and promises, transmitted and caused to be transmitted in interstate commerce from Havre, in the State of Montana, through Minneapolis, in the State of Minnesota, and then to Billings, in the State of Montana, by wire, writings, signs and signals for the purpose of executing the scheme and artifice to defraud, in violation of 18 U.S.C. § 1343.

OBJECT OF THE CONSPIRACY

It was the objective of the conspiracy to sell an asphalt mixer, commonly called a hot plant, at a premium price, to the Chippewa Cree Tribe by enticing a tribal official to promote and facilitate the sale with a promise that the tribal official would receive a "finder's fee," or sale's commission, thereby giving the tribal official a financial interest in the successful sale of the equipment to the tribe at the highest possible price.

OVERT ACTS

In furtherance of the conspiracy, and to affect the objects thereof, the conspirators committed, among others, the following overt acts.

1. In the Fall of 2011, KEVIN DAVID McGOVERN told Tony Belcourt, Chief Executive Officer of the Chippewa Cree Construction Corporation, and a person of substantial political influence on the Rocky Boy's Indian

Reservation, that he, and his company, MC EQUIPMENT HOLDINGS, LLC, wished to sell a hot plant, which had been purchased 18 months earlier for \$1.2 million.

2. In the Fall of 2011, KEVIN DAVID McGOVERN proposed to Tony Belcourt that if he could find a buyer of the hot plant MC EQUIPMENT HOLDINGS, LLC would pay a “finder’s fee,” or sale’s commission, equal to however much money Tony Belcourt could get over and above the asking price.
3. On or before January 5, 2012, Tony Belcourt used his influence and connections with the leadership of the Chippewa Cree Tribe to obtain a Business Committee resolution—08-12—approving the purchase of the hot plant.
4. On or about January 31, 2012, KEVIN DAVID McGOVERN, as agent for MC EQUIPMENT HOLDINGS, LLC, and Timothy Rosette, as Director of the Chippewa Cree Tribe Roads Department, entered into a buy-sell agreement for the purchase and sale of the hot plant in exchange for \$1.7 million from tribal funds.
5. Between February 6, 2012, and February 17, 2012, MC EQUIPMENT HOLDINGS, LLC, received and accepted four tribal payments totaling \$1.7 million.
6. On April 4, 2012, KEVIN DAVID McGOVERN issued and caused to be

issued payment from the accounts of MT WATERWORKS, LLC, in the amount of \$91,800 payable to Tony Belcourt.

7. On April 9, 2012, KEVIN DAVID McGOVERN issued and caused to be issued a check drawn on the accounts of MC EQUIPMENT HOLDINGS, LLC, in the amount of \$229,000 payable to Huston Leasing, a company owned and controlled by Havre, Montana, businessman Shad Huston.

All in violation of 18 U.S.C. § 371.

COUNT II THE SHARING OF THE FINDERS FEE CONSPIRACY

Between in or about the Fall of 2011, and continuing thereafter until on or about July 27, 2012, at Box Elder, Billings, and Havre, in the State and District of Montana, and other places, the defendant, BRIAN KELLY EAGLEMAN, together with Tony Belcourt, John Chance Houle, Timothy Rosette, James Eastlick, Jr., Bruce Sunchild, and Shad Huston, and others to the Grand Jury both known and unknown, did knowingly and intentionally conspire, confederate and agree to commit an offense against the laws of the United States, that is, having devised and intending to devise a scheme and artifice to defraud, transmitted and caused to be transmitted in interstate commerce from Havre, in the State of Montana, through Minneapolis, in the State of Minnesota, and then to Billings, in the State of Montana,

by wire, writings, signs and signals for the purpose of executing the scheme and artifice to defraud, in violation of 18 U.S.C. § 1343.

OBJECT OF THE CONSPIRACY

It was the objective of the conspiracy for officials of the Chippewa Cree Tribe to promote and facilitate the purchase of a hot plant the Tribe did not need at a price the Tribe could not justify in return for a share of a “finder’s fee” or sale’s commission, thereby giving the tribal officials a financial interest in the successful sale of the equipment to the tribe at the highest possible price.

OVERT ACTS

In furtherance of the conspiracy, and to affect the objects thereof, the conspirators committed, among others, the following overt acts.

1. On or before January 5, 2012, Tony Belcourt used his influence and connections with the leadership of the Chippewa Cree Tribe to obtain a Business Committee resolution—08-12—approving the purchase of a hot plant.
2. On or about January 31, 2012, Kevin David McGovern, as agent for MC Equipment Holdings, LLC, and Timothy Rosette, as Director of the Chippewa Cree Tribe Roads Department, entered into a buy-sell agreement for the purchase and sale of a hot plant in exchange for \$1.7 million from tribal funds.

3. Between February 6, 2012, and February 17, 2012, Timothy Rosette and others issued and caused to be issued four payments from Chippewa Cree Tribe accounts totaling \$1.7 million.
4. On April 12, 2012, Shad Huston and Huston Leasing, LLC, accepted and deposited a check from Kevin David McGovern, drawn on the accounts of MC Equipment Holdings, LLC., in the amount of \$229,000.
5. On or about April 13, 2012, Shad Huston issued and caused to be issued a \$3,000 check to Director of the Roads Branch, Timothy Rosette, from the deposited proceeds of the \$229,000 check from MC Equipment Holdings, LLC.
6. On or about April 20, 2012, Shad Huston issued and caused to be issued from the account of Huston Leasing, LLC, from the deposited proceeds of the \$229,000 check from MC Equipment Holdings, LLC, a cashier's check in the amount of \$12,558 for the personal benefit of Tribal Chairman Bruce Sunchild.
7. On or about April 25, 2012, Shad Huston issued and caused to be issued a cashier's check in the amount of \$50,000, using funds from the deposited proceeds of the \$229,000 check from MC Equipment Holdings, LLC, payable to the Internal Revenue Service for the benefit of Tribal Councilman BRIAN KELLY EAGLEMAN.

8. On or about May 7, 2012, Shad Huston issued and caused to be issued a \$2,000 check to Timothy Rosette from the deposited proceeds of the \$229,000 check from MC Equipment Holdings, LLC.
9. On or about July 27, 2012, Shad Huston issued and caused to be issued a \$3,000 check to Timothy Rosette from the deposited proceeds of the \$229,000 check from MC Equipment Holdings, LLC.

All in violation of 18 U.S.C. § 371.

COUNT III
DEFRAUDING THE TRIBE

Between in or about the Fall of 2011, and continuing thereafter until on or about July 27, 2012, at Box Elder, Billings, and Havre, in the State and District of Montana, and other places, the defendants, KEVIN DAVID McGOVERN, MC EQUIPMENT HOLDINGS, LLC, MT WATERWORKS, LLC, and BRIAN KELLY EAGLEMAN, and others, having devised and intending to devise a material scheme and artifice to defraud the Chippewa Cree Tribe, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice, and attempting to do so, did knowingly transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice.

THE SCHEME TO ENRICH TRIBAL OFFICIALS
THROUGH THE PURCHASE OF UNNECESSARY AND OVERPRICED
EQUIPMENT AND THEN TO SHARE IN THE EXCESS PROCEEDS

During the period of the Indictment, it was part of the scheme and artifice to defraud the Chippewa Cree Tribe, that the defendants, KEVIN DAVID McGOVERN and MC EQUIPMENT HOLDINGS, LLC, would propose to Chippewa Cree Construction Corporation Chief Executive Office Tony Belcourt that if the tribe were to buy a hot plant, which the MC EQUIPMENT HOLDINGS, LLC sought to sell for an amount certain, any amount over and above the asking price would be given to Tony Belcourt as a commission on the sale or as a “finder’s fee.”

It was further part of the scheme and artifice to defraud the Chippewa Cree Tribe, that Tony Belcourt, and other tribal officials, would introduce, promote, and obtain a Chippewa Cree Tribe Business Committee resolution to authorize the purchase of the hot plant for \$1.7 million.

It was further part of the scheme and artifice to defraud the Chippewa Cree Tribe, that KEVIN DAVID McGOVERN and MC EQUIPMENT HOLDINGS, LLC, would arrange for \$320,800 in direct and indirect payments to tribal officials and others who assisted in facilitating the sale of the hot plant to the Chippewa Cree Tribe for \$1.7 million, including Tony James Belcourt, BRIAN KELLY

EAGLEMAN, Timothy Rosette, James Eastlick Jr., Bruce Sunchild, and Shad Huston.

THE INTERSTATE WIRE COMMUNICATIONS

During the period of the Indictment, the defendants, KEVIN DAVID McGOVERN, MC EQUIPMENT HOLDINGS, LLC, MT WATERWORKS, LLC, and BRIAN KELLY EAGLEMAN, together with Tony James Belcourt and others, having devised and intending to devise a material scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, as described herein, for the purpose of executing the scheme to defraud, did transmit and cause to be transmitted by means of wire communication affecting interstate commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, that is, deposited checks and wire funds transfers, to and from Havre, in the State of Montana, through Minneapolis, in the State of Minnesota, and to Billings, in the State and District of Montana, in violation of 18 U.S.C. § 1343.

COUNT IV EMBEZZLEMENT OF TRIBAL FUNDS

That between the Fall of 2011 and February 17, 2012, at Box Elder and Havre, in the State and District of Montana, and other places, the defendant, BRIAN KELLY EAGLEMAN, together with Tony James Belcourt, John Chance Houle,

Bruce Sunchild, and Timothy Warren Rosette, and others, did knowingly embezzle, knowingly convert to their use and the use of another, willfully misapply and willfully permit to be misapplied, more than \$1,000 worth of the goods, assets, and property of the Chippewa Cree Tribe, an Indian tribal organization, and under the care, custody, and control of an agent of the Chippewa Cree Tribe, and did aid and abet the embezzlement, that is, the defendant, BRIAN KELLY EAGLEMAN, together with the other participants named and unnamed, promoted, pursued, and consummated, and assisted in the promotion, pursuit, and consummation of, the purchase of a hot plant for \$1.7 million from MC Equipment, LLC., using funds belonging to the Chippewa Cree Tribe, then and there well knowing that the hot plant was unnecessary and would likely remain unused, and that the sales price was significantly greater than the actual sales price of the hot plant so that the participants would all personally benefit from the transaction, in violation of 18 U.S.C. §§ 1163, 2.

COUNT V
BRIBERY OF A TRIBAL OFFICIAL

Between on or about April 12, 2012, and on or about April 16, 2012, at Billings, in the State and District of Montana, and other places, the defendants, KEVIN DAVID McGOVERN, MC EQUIPMENT HOLDINGS, LLC., and MT WATERWORKS, LLC., did corruptly offer, give, and offer to give a thing of value

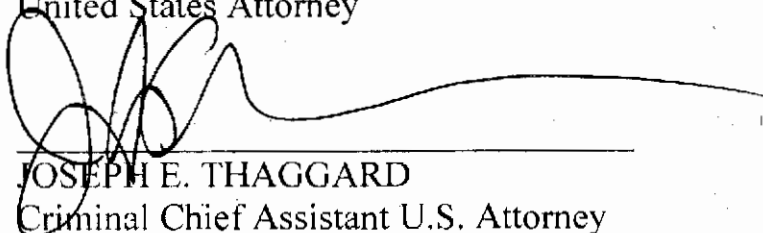
to Tony James Belcourt, the Chief Executive Officer and Contracting Officer of the Chippewa Cree Construction Corporation, an agent of Indian tribal government, with the intent to influence and reward Tony Belcourt in connection with any business, transaction, or series of transactions involving \$5,000 or more, that is, the defendants, KEVIN DAVID McGOVERN and MC EQUIPMENT HOLDINGS, LLC., was able to sell, and sold, a hot plant to the Chippewa Cree Tribe for more than the asking price by offering to personally reward and enrich Tony James Belcourt for the favorable exercise of his political influence and public authority in tribal government to facilitate the inflated transaction, and, thereafter, made a payment or payments to Tony Belcourt, directly or indirectly, to fulfill the corrupt agreement, in violation of 18 U.S.C. §§ 666(a)(2), 2.

A TRUE BILL.

Foreperson signature redacted. Original document filed under seal.



MICHAEL W. COTTER
United States Attorney



JOSEPH E. THAGGARD
Criminal Chief Assistant U.S. Attorney

Crim. Summons ☒

MARCH 29th
10:00AM JTS

Warrant: _____

Bail: _____